

**REMARKS**

Claims 1-6 and 24-39 are canceled, leaving claims 7-23 pending in the application.

Claims 7-23 stand rejected as being unpatentable over Lam (EPO Document Number 1 041 170 A2). Applicant respectfully requests reconsideration of such rejections.

Claim 7 recites a nickel/vanadium sputtering component structure which comprises at least 99.99 weight percent, excluding gases, nickel and vanadium; and which has an average grain size throughout the structure of less than or equal to about 40 microns ( $\mu$ ).

Lam discloses sputtering components containing nickel/vanadium, but does not suggest or disclose that such components have an average grain size of less than or equal to about 40  $\mu$ . The Examiner recognizes this distinction between claim 7 and the cited reference of Lam, but concludes that it would have been obvious to use an average grain size of less than or equal to about 40  $\mu$  throughout the components of Lam. The Examiner bases such conclusion on a contention that Lam's sputtering component is identical or substantially identical in composition to the sputtering component of claim 7, and is produced by an identical or substantially identical process. The Examiner states that his position is considered to be particularly valid because applicant has not provided sufficient specificity as to a method which would make the claim 7 recited component having an average grain size of less than or equal to about 40  $\mu$ . The Examiner goes on to state that applicant's paragraph 0029 of the specification provides some information regarding methodology from forming the component of claim 7, but that such paragraph is too

general. Specifically, the Examiner states that paragraph 0029 only very generally indicates that an ingot is subjected to thermo-mechanical processing to impart a desired grain size.

Applicant respectfully submits that the Examiner is mistaken in his contentions regarding the similarity of Lam's processing relative to applicant's processing, and regarding the alleged over-general description in applicant's specification of processing sufficient to form the claim 7 recited sputtering component structure.

First, applicant notes that the specification is not overly general in describing methodology sufficient to form a recited sputtering component having a grain size of less or equal to about  $40 \mu$ . Rather, the specification states at the beginning of paragraph 0029 that thermo-mechanical processing can be utilized to impart a desired grain size, and states at the end of the paragraph that exemplary thermo-mechanical processing is provided in an example immediately before the claims. The example referred to at the end of paragraph 0029 is at paragraph 0034 of the specification. Such example provides deformation temperatures and amounts, hot-rolling temperatures, cold-rolling temperatures, and an annealing temperature. Accordingly, the example at paragraph 0034 of the specification provides a detailed description of exemplary processing that can be utilized to impart desired grain sizes of the present invention.

Second, applicant notes that Lam does not disclose or suggest any processing which would form an average grain size of less or equal to about  $40 \mu$  within a sputtering component structure, and certainly doesn't disclose or suggest any processing of the type

described in applicant's example at paragraph 0034 of the specification. Thus, the Examiner's contention that Lam discloses processing identical or substantially identical to that utilized to form a sputtering component of the present invention is not supported by the cited reference of Lam. A person of ordinary skill in the art looking toward Lam would not find any motivation or suggestion for forming a sputtering component of the type recited in claim 7 having a grain size of less than or equal to about 40  $\mu$ . For at least this reason, claim 7 is not rendered obvious by the cited reference of Lam.

The Examiner's contention that Lam would provide such motivation or suggestion appears to be based on hindsight reconstruction of applicant's invention, rather than any teaching or suggestion found in the cited reference. The Examiner is reminded that hindsight reconstruction is an inappropriate basis for a §103 rejection. As the Examiner's rejection of claim 7 appears to be based on impermissible hindsight reconstruction of the subject matter of the claim, rather than on teachings or suggestions of the prior art, applicant respectfully requests that the rejection of claim 7 be withdrawn in the Examiner's next action.

Claims 8-23 depend from claim 7, and are therefore allowable for least the reasons for which claim 7 is allowable, as well as for their own recited features which are neither shown or suggested by the prior art.

Claims 7-23 are allowable over the cited reference for the reasons discussed above, and applicant therefore requests formal allowance of claims 7-23 in the Examiner's next action.

Respectfully submitted,

Dated: August 23, 2005

By:

  
\_\_\_\_\_  
David G. Latwesen, Ph.D.  
Reg. No. 38,533